

REMARKS

In the final Office Action mailed September 22, 2006, the Examiner objected to claim 11, pointing out that claim 11 incorrectly depends from claim 8. Claim 11 has now been amended to depend from claim 10.

Claims 1-4, 8-10, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gothjaelpsen et al. (6,509,391) either alone or in view of Ardegmani (U.S. 4,072,735). Gothjaelpsen et al. teach a hypoallergenic putty-like adhesive for use with an ostomy device. The Examiner has referred to Example 2 of Gothjaelpsen, which teaches the use of Kraton® (styrene-ethylene/butylene-styrene block copolymer), Vistanex® (polyisobutylene), a wax, and Hyvis® 10 (a polybutene oil). While the Examiner acknowledges that Gothjaelpsen et al. do not teach providing the adhesive in the form of a tape, he asserts that it would have been obvious to "vary the form to suit the end use", referring to col. 7, line 3 of Gothjaelpsen, which discloses that the adhesive paste may be in the form of a rod which is rolled and includes a release liner on one or both sides. However, the Examiner has provided no reasoning as to why one skilled in the art would be motivated to modify the form of an adhesive used in ostomy applications so that it may be used in roofing applications.

Further, applicant submits that Gothjaelpsen et al. do not teach an amorphous polyolefin as recited in claim 1. While the Examiner asserts that Hyvis® 10 (polybutene) constitutes an amorphous polyolefin, it is clear from the teachings of Gothjaelpsen et al. that the polybutene oil functions as a liquid tackifier. Gothjaelpsen et al. do not teach both a tackifier **and** an amorphous polyolefin as claimed. Accordingly, Gothjaelpsen et al. do not teach or suggest each and every component of the claimed adhesive composition, nor do Gothjaelpsen et al. teach or suggest such a composition in the form of a tape having a release liner.

The Examiner has further cited Ardegmani, which teaches a hot melt pressure sensitive adhesive having good heat stability which comprises a blend of ethylene-propylene rubber, a tackifying resin, and polybutene. The Examiner referred to col. 3,

lines 42-52, of Ardegmani which discloses applying the adhesive in the form of a strip which is covered with a release liner. The Examiner asserts that it would have been obvious to modify the rod-shaped adhesive liner configuration of Gothjaelpsen in the form of a "tape-shaped adhesive/liner assembly as described in Ardegmani." Applicant disagrees. First, there is no teaching in Ardegmani of providing their adhesive in the form of a **tape** having first and second surfaces as claimed. Rather, the teaching at col. 3 refers to the **application** of the adhesive in the form of a strip on the surface of a sanitary napkin.

Second, one skilled in the art would not look to Ardegmani to modify Gothjaelpsen as Ardegmani is directed to an adhesive for use on substrates such as sanitary napkins and floor tiles, while Gothjaelpsen is directed to an adhesive for ostomy applications. Even if one were to combine the teachings of the references, the claimed composition would not result as neither of the references teach a composition for adhering roofing materials which includes the combination of a thermoplastic block copolymer, polyisobutylene, a tackifier, and an amorphous polyolefin. Ardegmani does not teach the use of polyisobutylene, and neither Gothjaelpsen nor Ardegmani teach the use of an amorphous polyolefin as claimed. Nor would there be any motivation to modify their respective adhesive compositions as they are not directed to a roofing adhesive.

With regard to claims 26 and 27, the Examiner has acknowledged that Gothjaelpsen and Ardegmani do not teach the claimed static load and peel strength recited in those claims, but asserts that "the composition of the prior art is essentially the same as that recited in the claims," concluding that "a reasonable basis exists to believe that the composition of the prior art exhibits essentially the same properties." Applicant strongly disagrees. The combined teachings of Gothjaelpsen et al. and Ardegmani do not teach a hot melt pressure sensitive adhesive for adhering roofing materials which includes a blend of a thermoplastic block copolymer and polyisobutylene, and a tackifier and an amorphous polyolefin. The compositions of

Gothjaelpsen and Ardegmani both lack one or more of these components. Accordingly, no "reasonable basis" exists to assume such different compositions would necessarily exhibit the claimed properties of static load and peel strength.

While the Examiner has taken the position that the burden is on applicant to establish a difference between the compositions, applicant submits that he is under no such burden as the Examiner has not established a prima facie case of obviousness with regard to the claims. And, as neither Gothjaelpsen nor Ardegmani teach the claimed composition, their adhesive compositions would not inherently exhibit the claimed peel strength and static load. Claims 1-4, 8-10, 26 and 27 are clearly patentable over the combined teachings of Gothjaelpsen and Ardegmani.

Claims 1-12, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (US 6,482,281) in view of Ardegmani. Schmidt teaches an adhesive for use on vehicle lamps or headlamps which comprises 0.5 to 15 wt% thermoplastic elastomers; 5 to 40 wt% grafted poly- $\alpha$ -olefins, 5 to 45 wt% of a tackifying resin; and 5 to 55 wt% polyisobutylene. The Examiner acknowledges that Schmidt does not teach providing his composition in the form of a tape as claimed, but has again cited Ardegmani for teaching an adhesive in the form of an adhesive strip having a release liner, asserting that it would have been obvious to use the adhesive of Schmidt with a release liner. As pointed out above, Ardegmani does not teach an adhesive composition in the form of a tape having first and second surfaces as claimed, but rather teaches the application of adhesive onto one surface of a substrate in the form of a strip. Further, there is no motivation to combine the teachings of the references as they relate to different adhesive compositions used for different purposes. Nor is there any motivation to modify Schmidt as his adhesive composition is not used to adhere roofing materials together as claimed.

The Examiner acknowledges that the combined references do not teach the claimed peel strength or static load, but asserts that the composition of the prior art would exhibit "essentially the same properties." Again, applicant disagrees. Neither of

the references, either alone or in combination, teaches the claimed composition. Schmidt does not teach or suggest using from 10 to 20% by weight of a thermoplastic block copolymer as claimed, and Ardegmani does not teach or suggest the use of an amorphous polyolefin or polyisobutylene. The references, taken either alone or in combination, do not teach the claimed composition. Accordingly, there is no reasonable expectation that such different adhesives used for different purposes would inherently exhibit the claimed peel strength/static load.

Applicant notes that claim 13 is indicated as being allowable if rewritten in independent form. However, claim 13 is believed to be allowable in its present form.

For all of the above reasons, applicant submits that claims 1-13 and claims 26-27, as amended, are in condition for allowance. Early notification of allowance is respectfully requested.

Respectfully submitted,

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